

Appeal from decision of the Wyoming State Office, Bureau of Land Management, denying petition for reinstatement of oil and gas lease W-77620.

Affirmed.

1. Oil and Gas Leases: Reinstatement--Oil and Gas Leases: Termination

Where a federal oil and gas lessee fails to submit payment of annual rental within 20 days following the anniversary date of her lease, the Department lacks authority pursuant to 30 U.S.C. § 188(c) (1982), to reinstate her oil and gas lease which was terminated by operation of law for her failure to timely pay rental on or before the anniversary date of the lease.

APPEARANCES: Anna Beitman, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Anna Beitman has appealed from a decision of November 27, 1984, by the Wyoming State Office, Bureau of Land Management (BLM), denying her petition for reinstatement of oil and gas lease W-77620. Section 31(b) of the Mineral Leasing Act, as amended, 30 U.S.C. § 188(b) (1982), and 43 CFR 3108.2-1(a), provide that upon failure by a lessee to pay rental on or before the anniversary date of a lease on which there is no well capable of production of oil or gas in paying quantities, the lease terminates automatically by operation of law. Since rental payment for this lease was not tendered on or before June 1, 1984, the anniversary date of the lease, termination was automatic. Payment of the rental was not received within 20 days of the anniversary date, but was later received by BLM on November 16, 1984.

The payment of rental on November 16, 1984, was sent, according to the lessee, in response to the notice of termination which was sent by BLM on October 1, 1984. At the time she tendered payment of rental, appellant filed a petition for reinstatement pursuant to provision of 30 U.S.C. § 188(c) (1982) (class I reinstatement). BLM denied the petition for reinstatement because, in order to be eligible for class I reinstatement, the rental must

be received by BLM within 20 days of the anniversary date. Had the rental been tendered within 20 days of June 1, 1984, reinstatement might have been allowed if the lessee were able to show she exercised reasonable diligence, or that her failure to make timely payment was justifiable. Appellant has offered explanations tending to show her failure to pay was justifiable.

Here, however, appellant has not established the threshold requirement which would entitle her arguments to consideration, since she admittedly failed to tender payment within the 20 days following the due date for her payment. See Marion E. Banks, 88 IBLA 341 (1985); Francis X. Furlong II, 73 IBLA 67 (1983). Her petition for reinstatement was properly denied by BLM.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Franklin D. Arness  
Administrative Judge

We concur:

John H. Kelly  
Administrative Judge

Gail M. Frazier  
Administrative Judge

